

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant/Counterrespondent

Holt & Collins

vs.

NASD #90-03563

Name of Respondent/Counterclaimant

Lynn Susceff

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REPRESENTATION

For Claimant/Counterrespondent: David M. Greenberg, Esq., San Francisco, California.

For Respondents/Counterclaimant: John Vida, San Francisco, California.

CASE INFORMATION

Statement of Claim filed: December 18, 1990

Claimant's Submission Agreement signed on: December 10, 1990

Statement of Answer and Counterclaim filed by Respondent on: May 15, 1992

Respondent's Submission Agreement signed on: June 8, 1992

HEARING INFORMATION

Prehearing Conference Date: June 4, 1992 (one session)

Hearing Date/ Sessions: June 12, 1992 (two sessions)  
June 26, 1992 (three sessions)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged that an unpaid debit balance exists with respect to Respondent's margin account.

Respondent denied Claimant's claims and asserted that Claimant fraudulently and deceitfully liquidated Respondent's account and cheated Respondent.

Respondent asserted a counterclaim and alleged that Claimant, without proper margin calls or any notice, liquidated securities in Respondent's account at fractions of actual value due to Claimant's liquidity problems, and covered up continuing violations of NASD, Stock Exchange, and Federal regulations resulting in breach of contract and fraud.

Respondent also asserted that Claimant failed to sell or transfer securities when requested by Respondent, committed unauthorized sales and breached its fiduciary duty to Respondent in connection with Respondent's margin account.

Claimant denied the allegations outlined in Respondent's counterclaim.

RELIEF REQUESTED

Claimant requested:

1. \$24,847.70 principal;
2. Accrued interest from November 30, 1990, until the date judgment is entered, at the rate provided by law;
3. Costs of this arbitration, including attorney's fees;
4. Such other and further relief as the arbitration panel considers proper; and
5. Dismissal of Respondent's counterclaims.

Respondent requested:

1. Monetary damages of not less than \$143,795.00, in an exact amount to be proved;
2. For accrued interest on award from beginning of event, at a rate provided by law until award is paid;
3. For judgment denying all Claimant's requests in its Claim for Relief;
4. For treble damages and any attorneys fees pursuant to USC, 1862 et. seq.;
5. For cost of this arbitration, including attorneys fees and other costs incurred;

6. For monetary damages in the amount of not less than \$1,000,000.00, for negligence, fraud, breach of contract, and the intentional infliction of physical, emotional and financial distress; and

7. Such further relief as the arbitration panel deems proper.

#### OTHER ISSUES CONSIDERED & DECIDED

On June 1, 1990, Claimant filed a Motion to Bar arguments or defenses by Respondent. After reviewing and considering the submissions from the parties and hearing oral arguments during a prehearing telephone conference, the Chairperson, on behalf of the panel, ruled that he would admit the Answer and Counterclaim of Respondent.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

#### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of \$24,847.70 plus interest at the rate of 7% from November 30, 1990 to June 26, 1992.

2. Each and every claim of Respondent/Counterclaimant is dismissed.

3. The parties shall each bear their respective costs including attorneys' fees.

#### OTHER COSTS

None.

#### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$300 hearing session deposit previously made by the Claimant, as well as the \$1,000 hearing session deposit previously made by the Respondent/Counterclaimant.

Forum fees are to be split between the parties as follows:

One pre-hearing session	@ \$300.00	\$ 300.00
Five hearing sessions	@ \$600.00	3,000.00
Total		<u>\$ 3,300.00</u> or \$1,650 each

Claimant's share	\$ 1,650.00
Credit for hearing deposit	<u>300.00</u>
Balance due	\$ 1,350.00
 Respondent's share	 \$ 1,650.00
Credit for hearing deposit	<u>1,000.00</u>
Balance due	\$ <u>650.00</u>

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Name

Public/Industry

Concurring Arbitrators' Signatures

Robert Gorman  
Leonard Greenwold  
Dana L. Swaim

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

\_\_\_\_\_  
Robert Gorman

DATE SERVED: 08/12/92

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Leonard Greenwold

*Dana L. Swaim*  
Dana L. Swaim

Date of Decision: 08/05/92